

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DENNIS JAMES PATTERSON

Plaintiff,

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant,

Case No. 1:09-cv-413

HONORABLE PAUL L. MALONEY

**ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

Plaintiff Patterson filed a *pro se* complaint seeking judicial review of the decision of the Commissioner of Social Security denying his claims for benefits. The matter was automatically referred to the magistrate judge pursuant to 28 U.S.C. § 636 and W.D. MICH. LCivR 72.2(b). The magistrate judge has issued a report recommending the Commissioner's decision be affirmed.

“Both the Federal Rules of Civil Procedure and the Federal Magistrates Act were amended effective December 1, 2009 to simplify the calculation of time periods.” *Esch v. SSA*, No. 1:2009-cv-144, 2010 WL ___, *__ (W.D. Mich. Jan. 26, 2010) (Maloney, C.J.) (citing PUB. L. NO. 111-16 § 6(1), 123 Stat. 1608). A party now has fourteen days to file objections after being served with an R&R, instead of ten. *See Esch*, 2010 WL ___ at *__ (citing 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72 and W.D. MICH. LCivR 72.3(b)). The fourteen days start the day after a party is served, *see* FED. R. CIV. P. 6(a)(1)(A) (when calculating a time period, the period does not begin until the day after the event that triggers the right or obligation) and *Southall v. City of Grand Rapids*, 2008 WL 4739163, *1 (W.D. Mich. Oct. 29, 2008) (citing FED. R. CIV. P. 6(a)), and the court counts all

calendar days, including weekends and federal holidays, *see* FED. R. CIV. P. 6(a)(1)(B).

The R&R was mailed to the plaintiff the day after it was issued by the magistrate judge. Counsel for defendant was electronically served with the R&R when the R&R was filed. The deadline to file objections has passed and the court need not wait further for an objection.

Although the failure to file objections is a sufficient reason to adopt the Report and Recommendation, this Court has reviewed the merits of the report and finds the magistrate judge's reasoning and conclusions sound.

Accordingly, **IT IS HEREBY ORDERED:**

1. The R&R (Dkt. No.13) is **ADOPTED**.
2. The Commissioner's denial of disability insurance benefits (DIB) and supplemental security income (SSI) benefits is **AFFIRMED**.
3. The complaint is **DISMISSED**. This case is **TERMINATED** and **CLOSED**.

This order is final, but it is not appealable. *See Harris v. Detroit Pub. Schs.*, 245 F. App'x 437, 442 n.6 (6th Cir. 2007) (“[A] party’s failure to object to the recommendations of a magistrate judge constitutes a waiver of the right to appeal.”) (citing *US v. Walters*, 638 F.3d 947, 949-50 (6th Cir. 1981)); *Frontier Ins. Co. v. Blaty*, 454 F.3d 590, 596 (6th Cir. 2006) (“Frontier did not file an objection to the default entry within ten days of the [R&R]. * * * Frontier’s silence constitutes a waiver of the right to appeal”); *Catanzaro v. MDOC*, 2010 WL 233862, *9 (W.D. Mich. Jan. 14, 2010) (Quist, J.); *Vick v. Metrish*, 2010 WL 310467, *2 (W.D. Mich. Jan. 21, 2010) (Bell, J.).

Date: March 1, 2010

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge